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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD P. DOYLE and DAVID LOUIS KAMINSKY

Appeal 2008-004527
Application 10/612,583
Technology Center 2100

Decided: August 6, 2009

Before JOSEPH L. DIXON, LANCE LEONARD BARRY, and ST. JOHN COURTENAY, III, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-15. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The invention at issue on appeal "is an autonomic program error detection and correction system." (Spec. 9.) The Appellants offer the following summary of the invention.

> The system can monitor the operation of coupled components in the system, for instance application services, operating system services and computing resources. Each of the coupled components can produce a log of error conditions wherein the log entries are written in a common error format using common resource representations. Upon detecting an error condition in any of the coupled components, the log of the component giving rise to the detected error condition can be inspected to identify the source of the fault. Where the fault has occurred by reference to a dependent component, the log file of the dependent component can be examined to determine the cause of the failure. If the dependent component itself is the root cause of the failure, the system can reset the component, thereby clearing the error condition. Otherwise, where the dependent component has failed by reference to yet another dependency, the process can repeat until the error condition has been cleared.

(*Id.*)

ILLUSTRATIVE CLAIM

> 7. An autonomic system for diagnosing and correcting error conditions among interrelated components and resources comprising:

> a plurality of commonly formatted log files utilizing standardized naming conventions for the interrelated components and resources, each of said commonly formatted log files having an association with one of the interrelated components and resources; and,
>
> an autonomic system administrator coupled to each of the interrelated components and resources and configured to parse said log files to identify both error conditions arising in associated ones of the interrelated components and resources, and also dependent ones of the interrelated components and resources giving rise to the identified error conditions.

PRIOR ART

Cobb et al. ("Cobb")	US 5,119,377	June 2, 1992

REJECTION

Claims 1-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Cobb.

COMPONENTS AND RESOURCES

The Examiner finds that "Cobb discloses examples of the different error categories for the interrelated components and resources, including invalid data, and unexpected behavior of the components and resources (see col. 5, lines 50-54 . . . ." (Ans. 11.) The Appellants argue that "the Examiner had failed to specifically identify the claimed 'interrelated components and resources.'" (Reply Br. 2.)

ISSUE

Therefore, the issue before us is whether the Appellants have shown error in the finding that Cobb discloses interrelated components and resources of claims 1, 7, and 10.

LAW

"[A]nticipation is a question of fact." *In re Hyatt*, 211 F.3d 1367, 1371-72 (Fed. Cir. 2000) (citing *Bischoff v. Wethered*, 76 U.S. 812, 814-15 (1869); *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997)). "[A]nticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim . . . ." *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.,* 730 F.2d 1452, 1457 (Fed. Cir. 1984)). Of course, anticipation "is not an 'ipsissimis verbis' test." *In re Bond*, 910 F.2d 831, 832-33 (Fed. Cir. 1990) (citing *Akzo N.V. v. United States Int'l Trade Comm'n*, 808 F.2d 1471, 1479 n.11 (Fed. Cir. 1986)). "An anticipatory reference . . . need not duplicate word for word what is in the claims." *Standard Havens Prods. v. Gencor Indus.*, 953 F.2d 1360, 1369 (Fed. Cir. 1991).

FINDING OF FACT ("FF")

1. Cobb discloses that "[i]f a software routine is called or requested to perform a service from another software routine (e.g., get storage, read a database) and the call was found to be in error (e.g., the function is not

supported, invalid data in the call), then the EDDC [i.e., Early Detection Data Capture] process is called." (Col. 5, ll. 50-54.)

ANALYSIS

Cobb discloses that a software routine is called or requested to perform a service from another software routine, e.g., getting storage, reading a database. (FF 1.) We find that software routines that call each other to perform services, and the storages or databases on which these routines operate constitute interrelated components and resources.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown no error in the finding that Cobb discloses interrelated components and resources of claims 1, 7, and 10.

LOGS

The Examiner finds that Cobb's constructing of a generic alert "reads on the claimed limitation of parsing a log associated with said specific one of the components to determine whether said error condition arose from a fault in one of the interrelated components and resources named in said associated log, as recited in claims 1, 7, and 10." (Ans. 15.) The Appellants argue "that the claimed invention recites parsing two logs (i.e., 'parsing a log associated with said specific one of the components' and 'further parsing a log associated with said one of the interrelated components and resources'). However, the Examiner's cited passage only refers to parsing of a single log." (Reply Br. 8.) They also argue that "this log appears to be a general

log and not 'a log associated with said specific one of the components,' as claimed." (*Id.*)

ISSUE

Therefore, the issue before us is whether the Appellants have shown error in the Examiner's finding that Cobb discloses the logs of claims 1, 7, and 10.

LAW

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d at 1372). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

When the patentability of dependent claims is not argued separately, the claims stand or fall with the claims from which they depend. *In re King*, 801 F.2d at 1325; *In re Sernaker*, 702 F.2d 989, 991 (Fed. Cir. 1983).

FINDINGS OF FACT

2. Independent claims 1 and 10 recite in pertinent part the following limitations:

> parsing a log associated with said specific one of the components to determine whether said error condition arose from a fault in one of the interrelated components and resources named in said associated log, and further parsing a log associated with said one of the interrelated components and resources to identify a cause for said fault . . . .

3. Independent claim 7, in contrast, recites in pertinent part the following limitations:

> a plurality of commonly formatted log files utilizing standardized naming conventions for the interrelated components and resources, each of said commonly formatted log files having an association with one of the interrelated components and resources; and,
>
> an autonomic system administrator coupled to each of the interrelated components and resources and configured to parse said log files to identify both error conditions arising in associated ones of the interrelated components and resources, and also dependent ones of the interrelated components and resources giving rise to the identified error conditions.

4. Figure 10 of the reference shows plural error logs.

5. The reference explains that an "error log record is placed on a software problem error log." (Col. 7, ll. 63-64.)

6. Cobb discloses that "[a] generic alert is constructed . . . for software programs executing on a processor in a computer network that supports generic alerts as illustrated diagrammatically in FIG. 10. A number of steps have to be performed in order to construct the generic alert." (Col. 7, l. 65-col. 8, l.1.)

ANALYSIS

Claims 1, 7, and 10 require logs having an association with one of a plurality of components and resources. Claims 1 and 10 further require

parsing a first log to determine whether an error arose from a fault in a component or resources named therein and then parsing a second log associated with the named component or resource. (FF 2.) Giving the broadest, reasonable construction, however, claim 7 merely requires parsing logs, without specifying that the content of one log points to another log.

Cobb discloses plural error logs (FF 4) that contain error log records (FF 5). We find that the error records relate to the aforementioned software routines that, as found earlier, constitute a plurality of interrelated components and resources. Because the logs store records of errors in components and resources, we find that each log is associated with at least one component or resource. The Examiner does not show, however, that the content of one of the logs points to another log as required by claims 1 and 10.

Cobb performs a number of steps to construct a generic alert. (FF 6.) It is uncontested that at least some of the steps constitute parsing a log file. We find that constructing generic alerts for more than one of the references' log files requires parsing plural log files as required by claim 7. Because the Appellants did not argue separately the patentability of claims 8 and 9, the claims fall with claim 7, from which they depend.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown error in the Examiner's finding that Cobb discloses

the logs of claims 1 and 10 but not in his finding that the reference discloses the logs of claim 7.

DECISION

We reverse the rejection of claims 1-6 and 10-15, but affirm the rejection of claims 7-9.

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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